

## SETTLEMENT AGREEMENT

This Settlement Agreement (the "Agreement") is entered into this \_\_\_ day of \_\_\_ 2015 by and between the Gloucester Titanium Company, Inc. ("GTC"), The City of Gloucester City, Camden County, New Jersey (the "City") and the New Jersey Department of Environmental Protection (the "DEP") (collectively referred to as the "Parties" and individually each referred to as a "Party").

WHEREAS, GTC, a corporation incorporated in the state of Delaware with principal offices at 51 W. 52<sup>nd</sup> Street, New York, NY 10019, is the owner of a certain parcel of property known as Block 110, Lots 1, 10, 11, 12, 13, 18, and 19, and Block 120, Lot 1, Gloucester City, Camden County, New Jersey, being more particularly described on Exhibit "A" attached hereto and made a part hereof (hereinafter referred to as the "Property"); and

WHEREAS, GTC formerly conducted industrial operations at the Property, which operations ceased in late 1983; and

WHEREAS, the City, with a principal office located at 512 Monmouth Street, Gloucester City, New Jersey 08030, has declared a certain area within the City, including, but not limited to, the Property, as an area in need of redevelopment under the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et seq., because of certain conditions at the properties within such area, including, but not limited to, the presence of Contaminants (as such term is defined below) requiring remediation; and

WHEREAS, the DEP has designated an area, including the Property, as the Southport Brownfield Development Area (the "BDA") in order to facilitate the remediation and redevelopment of the BDA; and

WHEREAS, the City desires to acquire the Property in order to facilitate its remediation and redevelopment; and

WHEREAS, in accordance with a Purchase and Sale Agreement between GTC and the City executed of even date herewith (the "PSA"), GTC agrees to sell and convey the Property to the City, and the City agrees to purchase the Property from GTC; and

WHEREAS, as an inducement for GTC to convey the Property to the City and to make the monetary contribution to the City set forth herein to assist with the costs to address Environmental Conditions (as such term is defined herein) at the Site (as such term is defined below), the City has agreed to assume and be responsible for Environmental Conditions at the Site, pursuant to the terms and conditions set forth in this Agreement; and

WHEREAS, the DEP issued a No Further Action Letter and Covenant not to Sue for the Site dated June 14, 1999; and

WHEREAS, an Environmental Easement and Restrictive Covenant between GTC and Viacom International dated February 11, 1997 was executed for the Site; and

WHEREAS, a deed notice dated March 16, 1999 was filed for the Site at Book 5006, page 0235 in the land records of the Office of the Camden County Clerk. The deed notice describes with particularity the engineering controls currently in place for the Site, which include fencing and seven capped areas of radiogenic-contaminated soil; and

WHEREAS a Remedial Action Soil Permit (RAP 140001) was issued for contaminated soils at the Site exceeding the DEP's direct contact soil remediation standards. GTC is the permittee.

WHEREAS, the City has performed an environmental investigation of the Property, including a remedial investigation ("RI") of soil and groundwater at the entire Property, and based on such investigation, the City's Licensed Site Remediation Professional (LSRP) (as hereafter defined) has prepared and submitted to the DEP a combined report documenting the RI and proposing a remedial action work plan ("RAW") for soils and groundwater entitled "Radiological Remedial Action Work Plan for the CBS/Former Gloucester Titanium Site, dated November 26, 2013, Block 110, Lots 1, 10, 11-13, 18, 19 and Block 120, Lot 1, City of Gloucester, Camden County, New Jersey" (RT Environmental Services, Inc.), NJDEP PI # 007115" (the "RIR/RAW"); and

WHEREAS, the City has been awarded a grant from the Hazardous Discharge Site Remediation Fund ("HDSRF") in the amount of \$721,637, all of which has been disbursed to the City (the "HDSRF Grant") to finance certain remediation work, including the performance of the RI and the preparation of the RIR/RAW; and

WHEREAS, the City has identified a prospective redeveloper for the Property that will return the Property to productive use upon completion of the Remediation of the Property; and

WHEREAS, the Parties desire to resolve claims relating to Environmental Conditions at the Site, and the recovery of funds previously provided to the City by the State of New Jersey from the HDSRF, pursuant to the terms and conditions set forth in this Agreement and

WHEREAS, GTC has previously settled DEP's claim for alleged "natural resource damages," as such term is defined in the Consent Judgment between NJDEP and GTC dated on November 1, 2011 and entered by the court on November 16, 2011, caused by Discharges at the Property, which settlement is described in the Consent Judgment.

NOW, THEREFORE, in consideration of the premises set forth above and other good and valuable consideration as hereinafter described, the receipt and adequacy of

which are hereby acknowledged, and intending to be bound hereby, the Parties agree as follows:

1. Definitions. Capitalized terms not defined herein shall have the same meaning given to such terms under the Brownfield and Contaminated Site Remediation Act, N.J.S.A. 58:10B-1, *et seq.*, and the rules promulgated thereunder. For purposes of this Agreement, the following terms shall have the meanings set forth below.

a. "RAW" shall mean the Remedial Action Workplan submitted by the City's LSRP for the Property, and all subsequent modifications to the same, as issued by an LSRP.

b. "Contaminants" shall mean any substance, material or waste and any pollutant or contaminant, that is toxic, hazardous, infectious, explosive, corrosive, flammable or radioactive, or that is, now or in the future, defined, listed, included, or regulated under any Environmental Laws, including without limitation, petroleum (and derivatives thereof), polychlorinated biphenyls, asbestos and asbestos containing materials and urea formaldehyde.

c. "Delaware River NRD Claims" shall mean any and all of DEP's claims for Natural Resource Damages to the Delaware River, including the cost of assessing natural resource injuries to the Delaware River.

d. "Effective Date" shall mean the Closing Date, as that term is defined in the PSA, the date on which the Property is conveyed to the City by GTC pursuant to the PSA, regardless of when the conveyance documents from GTC to the City are subsequently recorded in the Office of the Camden County Clerk (acting as the Register of Deeds). Notwithstanding any provision to the contrary contained in this Settlement Agreement or the PSA, in no event shall the closing date precede the execution of this Settlement Agreement by all Parties.

e. "Environmental Conditions" shall mean any environmental contamination or pollution or threatened contamination or pollution of the Site, including the Discharge or threatened Discharge of Contaminants into, onto or under, surface water, groundwater, surface or subsurface strata, sediment, other geologic media, air and land. Environmental Conditions does not include any potential Delaware River NRD Claims.

f. "Environmental Laws" shall mean all federal, regional, state, county or local laws, statutes, ordinances, decisional law (including common law), rules, regulations, codes, orders, decrees, directives and judgments relating to pollution, damage to or protection of the environment and natural resources, Environmental Conditions, Discharges or threatened Discharges of Contaminants into the environment or the use, manufacture, processing, distribution, treatment, storage, generation, disposal, transport or handling of Contaminants, whether existing in the past or present or hereafter enacted, rendered, adopted or promulgated. Environmental Laws shall

include, but are not limited to, the following laws, and the rules and regulations promulgated thereunder, as the same may be amended from time to time: the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601, *et seq.* (“CERCLA”); the Resource Conservation and Recovery Act, 42 U.S.C. 6901, *et seq.* (“RCRA”); the Clean Air Act, 42 U.S.C. 7401, *et seq.*; the Clean Water Act, 33 U.S.C. 1251, *et seq.*; the Toxic Substances Control Act, 15 U.S.C. §§ 2601-2629; the Industrial Site Recovery Act, N.J.S.A. 13:1K-6, *et seq.*; the Site Remediation Reform Act, N.J.S.A. 58:10C-1, *et seq.* (the “SRRA”); the New Jersey Spill Compensation and Control Act, N.J.S.A. 58:10-23.11, *et seq.* (the “Spill Act”); the New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1, *et seq.* (the “NJWPCA”); the New Jersey Air Pollution Control Act, N.J.S.A. 26:2C-1, *et seq.*; and the New Jersey Environmental Rights Act, N.J.S.A. 2A:35A-1, *et seq.*

g. “GTC Parties” or “GTC Party” shall mean Gloucester Titanium Company, Inc. (“GTC”), CBS Operations Inc. and TCI Pacific Communications, Inc., and their respective officers, directors, employees, shareholders, predecessors, parents, successors, subsidiaries, assigns, agents and representatives, trustees in bankruptcy, and receivers appointed pursuant to a proceeding in law or equity, but only to the extent that any alleged liability of a GTC Party for remediating the Site is based on its status and in its capacity as a GTC Party, but not to the extent that any alleged liability of the GTC Party with respect to the Site arose independently of its status and capacity as an GTC Party.

h. “Licensed Site Remediation Professional” or “LSRP” shall mean an individual who is licensed by the Site Remediation Professional Licensing Board pursuant to N.J.S.A. 58:10C-7.

i. “Natural Resource Damages” shall mean all claims arising from Discharges on, at, under or emanating from the Property that occurred prior to the Effective Date, and that are recoverable by DEP as natural resource damages for injuries to natural resources under the Spill Act; the NJWPCA; the Oil Pollution Act, 33 U.S.C. §§2701 through 2761; the Clean Water Act, 33 U.S.C. §§1251 through 1387; CERCLA, the Sanitary Landfill Facility Closure and Contingency Fund Act, N.J.S.A. 13:1E-100 to -116, or any other state or federal common law, statute, or regulation, and include:

- i. The costs of assessing injury to natural resources and natural resource services, DEP's Office of Natural Resource Restoration's oversight costs determined pursuant to N.J.A.C. 7:26C-4.7, attorney's fees, consultants' and experts' fees, other litigation costs, and interest, incurred prior to the Effective Date; and
- ii. Compensation for restoration of, the lost value of, injury to, or destruction of natural resources and natural resource services.

Natural Resource Damages do not include:

- i. Compliance with any statutory or regulatory requirement that is not within the definition of Natural Resource Damages;
- ii. Requirements to clean up any Contamination as a result of Discharges on, at, under or emanating from the Property;
- iii. The City's continuing obligation to pay the DEP's oversight costs determined pursuant to N.J.A.C. 7:26C-4.7, incurred after the Effective Date; or
- iv. Liability, if any, for the Delaware River NRD Claims.

j. "Remediation" or "Remediate" shall mean any and all: (i) investigations of Environmental Conditions, including Preliminary Assessments, Site Investigations, Remedial Investigations and air, soil, groundwater, surface water and sediment sampling or monitoring; or (ii) actions taken to remove, abate or remediate Environmental Conditions, including the use, implementation, application, installation, operation or maintenance of removal actions, in-situ or ex-situ remediation technologies applied to the surface or subsurface soils or sediments, encapsulation or stabilization of soils or sediments, excavation and off-site treatment or disposal of soils or sediments, systems for the recovery and/or treatment of groundwater or free product, Engineering Controls or Institutional Controls.

k. "Response Action Outcome" or "RAO" shall mean a response action outcome issued by a LSRP pursuant to N.J.S.A. 58:10C-14.

l. "Site" shall mean the Property and all other areas where any Contaminant discharged on, at, under, or from the Property prior to the Effective Date has become located, which DEP has collectively designated as Site Remediation Program Interest No. 007115.

## 2. Agreements between GTC and the City and Dismissal of Tax Appeal.

a. The City shall, from and after the Effective Date, assume and, as between GTC and the City, be solely responsible for all Environmental Conditions associated with the Site in existence on or prior to the Effective Date, including without limitation the satisfaction of all obligations under Environmental Laws to perform Remediation with respect to such Environmental Conditions at the Site, but in accordance with N.J.S.A. 58:10-23.11f22.a., the City shall not assume or be responsible for the resolution of claims for compensation for Natural Resource Damages arising from such Environmental Conditions; provided further that the City shall assume and be responsible for such Natural Resource Damages claims to the extent of new Environmental Conditions and/or the exacerbation of existing Environmental Conditions, either of which occur as a consequence of any activity undertaken by or on behalf of the

City at the Site prior to or after the Effective Date. Without in any way limiting the generality of the foregoing, the City agrees to implement the RAW in conformity with the Site Remediation Reform Act, N.J.S.A. 58:10C-1 to -29, and all applicable Environmental Laws, including without limitation, the Administrative Requirements for Site Remediation, N.J.A.C. 7:26C, and the Technical Requirements for Site Remediation, N.J.A.C. 7:26E, and to obtain an RAO with respect to the Site, together with such a covenant not to sue as may be available by operation of law to a person responsible for conducting a remediation pursuant to N.J.S.A 58:10B-13.2.

b. Upon submittal of the RAW by the City's LSRP, the City shall terminate the existing deed notice and apply to DEP for termination of the existing Remedial Action Soil Permit (RAP 140001). Additionally, prior to the issuance of the RAO, the City shall file a new deed notice that reflects the post-remediation conditions and, as required, apply for a Remedial Action Soil Permit and/or a Remedial Action Groundwater Permit in conformity with the requirements of N.J.A.C. 7:26C-7.

c. Following the City's compliance with all requirements of Subsection 2.b. above, GTC shall undertake all commercially reasonable efforts to terminate the 1997 Environmental Easement and Restrictive Covenant.

d. Notwithstanding N.J.A.C. 7:26C-7.10(c)1, for any engineering control subject to a Remedial Action Soil Permit or a Remedial Action Groundwater Permit for which the City is a permittee, beginning with the first property tax quarter after the date a Remedial Action Soil Permit and/or a Remedial Action Groundwater Permit is issued and quarterly thereafter until 10 years of financial assurance have been deposited, the City shall provide financial assurance for the Remedial Action Soil Permit and/or a Remedial Action Groundwater Permit, as the case may be, by depositing into a segregated sub-account in the Remediation Fund established pursuant to Section 2g below an amount equal to the quarterly taxes that would be due and owing on the Property if title to the Property were privately held, or the quarterly taxes due and owing if and when a parcel is sold and privately held.

In the event that the City subdivides and sells a parcel of the Property, the City shall provide in the contract of sale for such parcel a requirement that the prospective purchaser agrees to become a permittee for any required Remedial Action Permit for that parcel pursuant to N.J.A.C. 7:26C-7.11, including among other requirements, posting the full 30-year amount of the financial assurance required for the Remedial Action Permit for that parcel. The City also agrees to comply with its obligation to transfer a remedial action permit as specified currently at N.J.A.C. 7:26C-7.11. Upon the closing of any sale(s) and following the new owner's full compliance with N.J.A.C 7:26C-7.11, the City may reduce the amount of the financial assurance due from the City under this subparagraph by the amount of the financial assurance for the Remedial Action Permit posted by the new owner(s) of any subdivided parcel(s). The City shall otherwise continue to comply with its financial assurance obligations under this subparagraph for such portions of the Property remaining under the City's ownership and shall make the required quarterly deposits until 10 years of financial

assurance have been deposited into the sub-account in the Remediation Fund. The City's obligations to post and maintain 10 years of financial assurance under this subparagraph shall remain in full force and effect until the City has divested itself of the entire Property.

e. The City shall, upon GTC's request, provide GTC with copies of all correspondence, reports, workplans, proposals, field and laboratory data and all other documents and forms submitted by the City or its LSRP to, or received by the City or its LSRP from, the DEP with respect to the Remediation of the Site.

f. A GTC Party shall pay the sum of \$1,500,000 (the "GTC Settlement Amount") to the City upon the Effective Date. The GTC Settlement Amount, together with GTC's conveyance of the Property to the City, shall constitute the full and final consideration by GTC for (i) the City's agreement to undertake the obligations set forth in this Agreement and (ii) the DEP's agreement and covenants as to the full and final resolution of any claims released by the DEP as set forth in this Agreement.

g. The GTC Settlement Amount shall be deposited by the City into a separate account with a financial institution regulated under State or federal law and acceptable to the DEP ("Remediation Fund"). The City's LSRP shall provide DEP with copies of all invoices authorized for payment by the LSRP from the Remediation Fund on the first of each month beginning with the month immediately following the Effective Date. The invoices shall be accompanied by a statement for the Remediation Fund showing account activity and the balance in the Remediation Fund.

h. GTC shall file a Stipulation of Dismissal, with prejudice, with respect to all pending tax appeals within thirty (30) days after the Closing Date.

### 3. DEP's Release and Waiver; Covenant Not to Sue.

a. In consideration of GTC's payment of the GTC Settlement Amount, and the DEP's rights as an intended third-party beneficiary pursuant to Section 9 of this Agreement, the DEP hereby agrees from and after the satisfaction of GTC's obligations pursuant to Section 2.d. of this Agreement to release, waive and covenant not to sue or take any administrative or legal action against GTC and any of the GTC Parties (including assertion of any lien against GTC or any of the GTC Parties or any of their property) with respect to the following:

- i. With the exception of any potential Delaware River NRD Claims, any costs associated with the Remediation of any Discharges of Contaminants on, at, under, or from the Property as identified in the RIR/RAW or otherwise addressed by the City pursuant to the RAW, or pursuant to Sections 5.a., 5.b., or 5.e. hereof, or any other Remediation arising from Environmental Conditions in existence on or

prior to the Effective Date, or for which a RAO is issued, and any DEP oversight costs related thereto; and

ii. Any monies awarded to the City from the HDSRF; and

b. In addition to the foregoing, in consideration of the City's undertakings with respect to the remediation of the Site:

i. DEP agrees, from and after the issuance of the RAO, that a covenant not to sue will issue by operation of law as set forth in N.J.S.A. 58:10B-13.2, and to release and waive any claims against the City (including any claimed right to assert a lien against the City or any of its property) with respect to compensation for Natural Resource Damages that are not otherwise the result of new Environmental Conditions or the exacerbation of existing Environmental Conditions either of which occur as a consequence of any activity undertaken by the City at the Site.

ii. Subject to paragraph 2.(c) of the HDSRF Reimbursement Agreement referenced in Section 10, which authorizes the DEP to file a lien on the Property securing the City's repayment of the HDSRF Funds until such time as the City's repayment obligations under that agreement have been fulfilled, DEP further agrees to release, waive and covenant not to sue or take any administrative or legal action against the City (including assertion of any lien against the City or any of its property) with respect to: (1) monies awarded to the City from the HDSRF for the Remediation of Discharges of Contaminants on, at, under or emanating from the Property upon full satisfaction of the City's obligations pursuant to Section 2.above and the City's obligations under the HDSRF Reimbursement Agreement; and (2) any DEP claims for oversight costs related to the Remediation of the Site upon full satisfaction of those costs.

#### 4. Public Notice; Contribution Protection.

a. When entered, this Agreement will constitute an administratively or judicially approved settlement within the meaning of N.J.S.A. 58:10-23.11f.a.(2)(b) and 42 U.S.C.A. § 9613(f)(2) for the purpose of providing protection to GTC, the GTC Parties and the City from contribution actions. The Parties agree that GTC and the GTC Parties are entitled, upon GTC satisfying its obligations under this Agreement, to protection from contribution actions or claims for matters addressed in this Agreement under CERCLA, the Spill Act, the Joint Tortfeasors Contribution Law, N.J.S.A. 2A:53A–



1 et seq., the Comparative Negligence Act, N.J.S.A. 2A:15-5.1 to 5.8 or any other statute, regulation or common law principle that provides contribution rights. The Parties also agree that the City is entitled, upon the City satisfying its obligations under this Agreement, to protection from contribution actions or claims for matters addressed in this Agreement under CERCLA, the Spill Act, the Joint Tortfeasors Contribution Law, N.J.S.A. 2A:53A-1 et seq., the Comparative Negligence Act, N.J.S.A. 2A:15-5.1 to 5.8 or any other statute, regulation or common law principle that provides contribution rights.

b. In order for GTC, the GTC Parties and the City to obtain protection under N.J.S.A. 58:10-23.11f.b. from contribution claims concerning the matters addressed in this Agreement, on [REDACTED], DEP published notice of this Agreement in the New Jersey Register and on DEP's website in accordance with N.J.S.A. 58:10-23.11e.2. Such notice included the following information:

- i. The name and location of the Property;
- ii. GTC's (for itself and for the benefit of the GTC Parties) and the City's names;
- iii. A summary of the terms of the settlement; and
- iv. Notice of when a copy of this Settlement Agreement may be reviewed on DEP's website.

c. DEP, in accordance with N.J.S.A. 58:10-23.11e.2, arranged for written notice of the Agreement to all other potentially responsible parties of whom DEP had notice as of the date DEP published notice of the proposed settlement in this matter in the New Jersey Register in accordance with Section 4.b. above.

d. On [REDACTED], the DEP notified GTC and the City that the DEP received no comments that disclosed facts or considerations that indicated to the DEP, in its sole discretion, that the settlement by the DEP was inappropriate, improper or inadequate.

##### 5. DEP's Reservation of Rights.

a. Notwithstanding any other provision of this Agreement, DEP reserves, and this Agreement is without prejudice to, DEP's right to sue or take administrative action to compel the City to perform further Remediation at the Site, or to reimburse DEP for any additional costs and damages, if, before an RAO is issued for the Site:

- i. DEP discovers conditions at the Site, previously unknown to DEP; or
- ii. DEP receives information, previously unknown to DEP, in whole or in part; and

- iii. these previously unknown conditions or information, together with any other relevant information, indicate that the Remedial Action (as that term is defined at N.J.S.A. 58:10B-1) selected for the Site is not protective of human health and safety, or the environment.

b. Notwithstanding any other provision of this Agreement, the DEP reserves, and this Agreement is without prejudice to, the DEP's right to sue or take administrative action to compel the City to perform further Remediation at the Site, or to reimburse the DEP for any additional costs and damages, if, after the RAO is issued for the Site:

- i. DEP discovers conditions at the Site, previously unknown to DEP; or
- ii. DEP receives information, previously unknown to DEP, in whole or in part; and
- iii. these previously unknown conditions or information, together with any other relevant information, indicate that the Remedial Action (as that term is defined at N.J.S.A. 58:10B-1) implemented for the Site is not protective of human health and safety, or the environment.

c. For the purposes of subsection 5.a. above, the information and the conditions known to DEP shall include only the information and conditions known to the DEP as of the date of the RAW.

d. For the purposes of subsection 5.b. above, the information and the conditions known to DEP shall include only the information and conditions known to the DEP as of the date the RAO is issued.

e. Notwithstanding any other provision of this Agreement, the DEP retains all authority, and reserves all rights, to undertake any additional Remediation authorized by law concerning the Site, or to direct the City to undertake any Remediation authorized by law concerning the Site.

f. The provisions contained in Section 3 above do not pertain to any matters other than those expressly stated in this Agreement. The DEP reserves, and this Agreement is without prejudice to, all rights against GTC and the City concerning all other matters, including the following:

- i. claims based on GTC's or the City's failure to satisfy any term or provision of this Agreement;

- ii. liability for any discharge or unsatisfactory storage or containment, after the Effective Date, of any Contaminant by GTC or the City at the Property, other than as ordered or approved by DEP;
- iii. criminal liability;
- iv. with respect to the City only, liability for any violation by the City of federal or state law that occurs during or after Remediation of the Site;
- v. liability for any claim filed against the Spill Fund concerning the Site;
- vi. liability for the Delaware River NRD Claims.

g. The Parties agree that the Delaware River NRD Claims are not a matter covered by this Agreement. DEP hereby expressly reserves its Delaware River NRD Claims.

6. Release of Claims and Indemnification by the City.

a. Except to enforce its rights under this Agreement, upon the Effective Date, the City hereby waives, releases and covenants not to sue GTC and any of the GTC Parties with respect to any and all claims, rights, remedies or causes of action that the City may have now or in the future against GTC, and any of the GTC Parties, or that may arise against GTC and/or any of the GTC Parties under Environmental Laws or any other theory of liability with respect to any environmental matters respecting the Site, including without limitation with respect to: (i) any Environmental Conditions at the Site; and (ii) the performance of any Remediation pursuant to the RAW, or pursuant to Sections 5.a., 5.b., or 5.e. hereof, or other Remediation arising from Environmental Conditions in existence on or prior to the Effective Date, or for which a RAO is issued, and any DEP oversight costs related thereto.

b. The City shall, from and after the Effective Date, defend, indemnify and hold GTC and the GTC Parties harmless from and against any and all claims, losses, liabilities, fines, penalties, costs (including sampling, monitoring and remediation costs, attorneys', consultants' and engineering fees, costs and disbursements, costs of defense and interest) and damages (including damages on account of personal injury or death, and property damage) imposed upon, incurred by or asserted against GTC and/or any of the GTC Parties, or for which GTC and/or any of the GTC Parties may be liable or obligated arising from or relating to (i) any and all environmental matters respecting the Site, including without limitation any Environmental Conditions on, at, under or emanating from the Site, and (ii) the City's failure to satisfy any of its obligations under this Agreement. Notwithstanding anything stated in this Section 6.b.,

the City's obligations under this Section 6.b. shall not extend to claims for compensation for Natural Resource Damages in connection with any Environmental Conditions at the Site; provided further that the City's obligations under this Section 6.b. shall extend to claims for compensation for Natural Resource Damages in connection with any Environmental Conditions at the Site to the extent of new Environmental Conditions and/or the exacerbation of existing Environmental Conditions either of which occur as a consequence of any activity undertaken by the City at the Site prior to or after the Effective Date.

7. No Admission. Nothing set forth in this Agreement shall constitute an admission of liability by GTC, any of the GTC Parties, or the City for any Environmental Condition respecting the Site, including any Discharges of Contaminants on, at, under, or from the Property or any cleanup or removal costs relating thereto.

8. Condition. The execution and delivery of this Agreement by the City and the DEP shall be a condition to any obligation of GTC to convey the Property to the City in accordance with the terms and conditions of the PSA.

9. Third-Party Beneficiary. The Parties agree that the DEP is an intended third-party beneficiary of the City's obligations set forth in Section 2. of this Agreement and shall have the right to enforce the City's satisfaction of such obligations; provided that the DEP agrees that so long as the City diligently pursues and obtains LSRP approval of and implements the RAW for the Site in accordance with all applicable laws, rules and requirements, obtains a RAO for the Site, and complies with the conditions of the RAP, the DEP will not (a) take any enforcement action against the City for the performance of Remediation with respect to Environmental Conditions as they exist as of the Effective Date, (b) seek to recover from the City or, subject to the provisions of paragraph of 2.(c) of the HDSRF Reimbursement Agreement, assert any lien for any costs of performing Remediation with respect to any Discharges of Contaminants on, at, under, or from the Property and any DEP claims for oversight costs related to performance of Remediation with respect to the Site, or (c) seek to recover from the City compensation for Natural Resource Damages in connection with any Discharges of Contaminants arising from Environmental Conditions at the Site in existence on or prior to the Effective Date, that are not otherwise the result of new Environmental Conditions or the exacerbation of existing Environmental Conditions, either of which occur as a consequence of any activity undertaken by the City prior to or after the Effective Date. Upon obtaining the Remedial Action Permit and the subsequent issuance of an RAO for the Site, a covenant not to sue will issue by operation of law pursuant to N.J.S.A. 58:10B-13.2 with respect to the Environmental Conditions addressed by such RAO.

10. HDSRF Grant - Reimbursement. Simultaneously with this Agreement, the City agrees to enter into a separate agreement with DEP to reimburse the State for the \$721,637 HDSRF Grant ("HDSRF Reimbursement Agreement"). The City further agrees not to submit any applications for additional HDSRF grants for Remediation related to the Site.

11. Notice. Except as otherwise provided in this Agreement, whenever written notice or other documents are required to be submitted by one Party to another, they shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change to the other Parties in writing.

As to DEP:

William Lindner  
Project Manager, Office of Brownfield Reuse  
NJ Department of Environmental Protection  
401 East State St. 6<sup>th</sup> Floor  
PO Box 420  
Trenton, NJ 08625  
Tel. (609) 292-1251

As to GTC:

Gloucester Titanium Company, Inc.  
c/o Jeffrey B. Groy  
Vice President, Senior Counsel/Environmental  
CBS Law Department  
CBS Corporation  
2 East Mifflin Street, Suite 200  
Madison, WI 53703

With a copy to:

Eric J. Sobczak  
Senior Vice President, Associate General Counsel  
CBS Law Department  
CBS Corporation  
20 Stanwix Street  
Pittsburgh, PA 15222-1384

And to:

Kevin J. Bruno, Esquire  
Blank Rome, LLP  
405 Lexington Avenue  
New York, NY 10174-0208

As to the City:

Administrator  
Gloucester City  
512 Monmouth Street  
Gloucester City, NJ 08030  
Tel. (856) 456-0205

With a copy to:

Howard C. Long, Jr., Esquire  
WADE, LONG & WOOD, L.L.C.  
1250 Chews Landing Road  
Laurel Springs, NJ 08021

All notices and submissions shall be considered effective upon receipt, unless otherwise provided in this Agreement.

12. Modification. This Agreement represents the entire agreement among the Parties with respect to the subject matter hereof. No modification or waiver of this Agreement shall be effective except upon written amendment to this Agreement duly executed by all of the Parties.

13. Governing Law. This Agreement shall be governed by and interpreted under the laws of the State of New Jersey.

14. Authority to Execute. Each of the undersigned representatives of the Parties certify that he or she is authorized to enter into the terms and conditions of this Agreement and to execute and fully bind his or her respective Party to this Agreement.

15. Counterparts. This Agreement may be signed and dated in any number of counterparts, each of which shall be an original, and such counterparts shall be one and together be one and the same Agreement.

(The remainder of this page is intentionally blank.)

**NEW JERSEY DEPARTMENT OF  
ENVIRONMENTAL PROTECTION**

Dated:

By: \_\_\_\_\_  
Kevin F. Kratina,  
Assistant Director  
Enforcement & Information Support Element  
Site Remediation Program

Dated:

By: \_\_\_\_\_  
Anthony J. Farro, Administrator  
New Jersey Spill Compensation Fund

Dated:

By: \_\_\_\_\_  
Rich Boornazian, Assistant Commissioner  
Natural & Historic Resources

**CITY OF GLOUCESTER CITY**

Dated:

By: \_\_\_\_\_  
William P. James, Mayor

**GLOUCESTER TITANIUM COMPANY, INC.**

Dated:

By: \_\_\_\_\_

Title: \_\_\_\_\_



## Exhibit "A"

### Legal Description of the Property